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 9  
 10 UNITED STATES BANKRUPTCY COURT

## 11 DISTRICT OF NEVADA

12 In re ) Case No.: 09-20744 lbr  
 13 )  
 14 Joseph A. Boateng, ) Chapter 13  
 15 )  
 16 Debtor. ) Date: 12/23/09  
 17 ) Time: 10:00 a.m.

**OPPOSITION TO MOTION FOR RELIEF FROM STAY**

18 COMES NOW the Debtor, Joseph A. Boateng, by and through his  
 19 attorney, DAN M. WINDER, ESQ., and opposes the Motion for Relief from  
 20 the Stay filed by Movant, insofar as the same seeks an order of the  
 21 Court vacating the automatic stay.

**MEMORANDUM OF POINTS AND AUTHORITIES**

22 United States Bank Code Section 361(1) states, in pertinent  
 23 part, as follows:

24 "When adequate protection is required under section 362, or 364, of  
 25 this title of an interest of an entity in property, such adequate  
 26 protection may be provided by--

27 (1) requiring the trustee to make a cash payment or periodic cash  
 28 payments to such entity, to the extent that the stay under section  
 29 362 of this title, use, sale, or lease under section 363 of this  
 30 title, or any grant of a lien under section 364 of this title  
 31 results in a decrease in the value of such entity's interest in  
 32 such property;

33 The property which is the subject matter of the instant Motion  
 34 is Debtors' personal residence, and it is vital to him to retain the  
 35

1 property for a fresh start once their debts are adjusted, and also  
2 during the period of the Plan. Thus, the property is necessary for  
3 an effective reorganization of the Debtor. Additionally, Debtor has  
4 proposed a Plan which proposes to pay any and all pre-petition  
5 arrearages owing to Movant. Finally, Debtor is currently negotiating  
6 directly with the Movant (not through or via counsel) on a loan  
7 modification with Movant.

8 If arrears remain after the loan modification process is  
9 completed between Debtor and Movant, Debtor proposes to pay any  
10 remaining post-petition arrearages over a period not to exceed six  
11 (6) months with the reasonable attorney's fees and costs incurred by  
12 Movant to be paid in the seventh month. Naturally, during the seven-  
13 month period, the Debtor will need to maintain ongoing monthly  
14 mortgage payments.

15 WHEREFORE, Movant's Motion for Relief from the Automatic Stay  
16 should be denied, and Debtor be allowed to enter into an adequate  
17 protection Order with the Movant.

18 DATED this 2<sup>nd</sup> day of December, 2009.

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20 LAW OFFICE OF DAN M. WINDER, P.C.  
21  
22 /s/ Dan M. Winder, Esq.  
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